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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,906	02/14/2007	Angeline Ingrid Bartholomeusz	19781	7415
SCULLY, SCOTT, MURPHY & PRESSER, P.C. 400 GARDEN CITY PLAZA			EXAMINER	
			BOESEN, AGNIESZKA	
SUITE 300 GARDEN CITY, NY 11530			ART UNIT	PAPER NUMBER
			1648	
			MAIL DATE	DELIVERY MODE
			01/22/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)	
	10/576,906	BARTHOLOMEUSZ ET AL.	
Office Action Summary	Examiner	Art Unit	
	AGNIESZKA BOESEN	1648	
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with the c	correspondence address	
A SHORTENED STATUTORY PERIOD FOR REPL WHICHEVER IS LONGER, FROM THE MAILING D - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailin earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION (136(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from e, cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).	
Status			
1) Responsive to communication(s) filed on 14 F 2a) This action is FINAL . 2b) This 3) Since this application is in condition for allowated closed in accordance with the practice under B.	s action is non-final. nce except for formal matters, pro		
Disposition of Claims			
4) ☐ Claim(s) <u>1-130</u> is/are pending in the application 4a) Of the above claim(s) is/are withdra 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) <u>1-130</u> are subject to restriction and/o	wn from consideration.		
Application Papers			
9) The specification is objected to by the Examine 10) The drawing(s) filed on is/are: a) accomposed and applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the Example 11.	cepted or b) objected to by the I drawing(s) be held in abeyance. See tion is required if the drawing(s) is objected to by the I	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).	
Priority under 35 U.S.C. § 119			
12) ☐ Acknowledgment is made of a claim for foreign a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority document 2. ☐ Certified copies of the priority document 3. ☐ Copies of the certified copies of the priority application from the International Burea * See the attached detailed Office action for a list	ts have been received. ts have been received in Applicati rity documents have been receive u (PCT Rule 17.2(a)).	on No ed in this National Stage	
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal F 6) Other:	ate	

DETAILED ACTION

Applicant's preliminary amendment filed February 14, 2007 is acknowledged. Claims 1-130 are pending and subject to the following restriction requirement.

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-52 and 130, drawn to an isolated hepatitis B variant and a vaccine comprising an agent from a surface component of an HBV variant.

Group II, claim(s) 53-74 and 129, drawn to a method for determining the potential for an HBV to exhibit reduced sensitivity to a nucleoside or nucleotide analog.

Group III, claim(s) 75-87, drawn to a method for detecting an agent which exhibits inhibitory activity to an HBV which exhibits resistance or decreased sensitivity to one or more of ADV, LMV, TFV and/or FTC.

Group IV, claim(s) 88-100, drawn to a computer product for assessing the usefulness of a viral variant or biological sample.

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Group V, claim(s) 101-112, drawn to a use of an HBV variant in the manufacture of a medicament for the treatment or prophylaxis of HBV infection.

Group VI, claim(s) 113-124, drawn to a method for detecting a variant HBV exhibiting an altered immunological profile.

Group VII, claim(s) 125-128, drawn to a kit for an assay for variant HBV comprising genetic agents capable of detecting an altered polymerase gene and/or an altered surface antigen gene on the HBV variant.

The inventions listed in groups I, II, III, IV, V, VI and VII do not relate to a single general inventive concept under PCT Rule 13.1 because they lack the same or corresponding special technical features for the following reasons: the shared technical feature of the claimed invention is an isolated hepatitis B variant comprising a nucleotide mutation in a gene encoding a DNA polymerase and in S gene and methods for determining the potential for an HBV to exhibit reduced sensitivity to a nucleoside or nucleotide analog and a method for detecting an agent which exhibits inhibitory activity to an HBV which exhibits resistance or decreased sensitivity to one or more of ADV, LMV, TFV and/or FTC.

Bartholomeusz et al. (WO03/066841 A1 in IDS of 10/23/2006) teach an isolated hepatitis B variant comprising a nucleotide mutation in a gene encoding a DNA polymerase and in S gene and methods for determining the potential for an HBV to exhibit reduced sensitivity to a nucleoside or nucleotide analog and a method for detecting an agent which exhibits inhibitory

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activity to an HBV which exhibits resistance or decreased sensitivity to one or more of ADV, LMV, TFV and/or FTC (see claims 1-39).

Since Applicant's invention does not contribute a special technical feature when viewed over the prior art they do not have a single inventive concept and thus the claims lack unity of invention. Therefore, the instant invention lacks Unity of Invention and restriction is set forth as it applies to U.S. practice.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AGNIESZKA BOESEN whose telephone number is (571)272-8035. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Agnieszka Boesen/ Examiner, Art Unit 1648